

The Watchman and Southiron.

WEDNESDAY, DEC. 9, '91.

Judge Hudson's Decision in the Case of the National Bank of Newberry.

The State of South Carolina, County of Newberry, in the Court of Common Pleas, Ex parte the National Bank of Newberry, S. C.—Petition for Writ of Mandamus.

On the 16th day of November last, the foregoing petition was exhibited in the Court of Common Pleas for the county of Newberry, praying for a writ of peremptory mandamus to compel Wallace C. Conner, auditor of said county, to restore to his tax list and tax duplicate the assessed valuation of the personal property of the said bank as fixed by said auditor and the boards of township assessors and county equalization, and afterwards unlawfully increased by the said auditor under orders from the Comptroller General.

The petition alleges that the personal property of the said bank was assessed by R. L. McGaughrin, president, last February at the valuation of \$150,000 for taxation for the fiscal year beginning November 1, 1890, and ending October 31, 1891. That this valuation was accepted by the said auditor and in due course of proceeding during said fiscal year after careful investigation and careful investigation was sanctioned, approved and adopted by the board of township assessors and finally by the board of equalization for the county, and was so entered in his books by the county auditor, as they finally fixed. After this action of the auditor and the board of assessors and county board of equalization the said auditor was directed and ordered by the Comptroller General of the State to increase the valuation of the said personal property from \$150,000 to \$350,000, and without further authority he proceeded to increase it and to enter it on his tax list and duplicate. The petition alleges that every effort has been made by oral and by written application to the Comptroller General and auditor to have the original and lawful valuation restored to the tax books, but the applications have been refused. Being, therefore, without any other legal remedy, or mode of redress, suit is made to this Court for the writ of mandamus. Upon this petition duly verified a rule was issued requiring the auditor to show cause why the writ should not issue to compel him to correct his error and to restore to his tax list and duplicate the valuation of the property as fixed by lawful authority. The return to the rule does not specifically deny the allegations of the petition, but simply states that he made up his tax books for the County of Newberry as required by law, and by the instructions of the Comptroller General, and deposited the duplicate with the county treasurer, and took his receipt therefor. The return is equivalent to a denial to the petition, and in the argument all its allegations were treated as true. The jurisdiction of the Court was challenged, and besides this, the only other pleading question raised and argued was whether the Comptroller General has authority thus to raise the assessed valuation of personal property of a banking corporation.

After argument I held both issues in favor of petitioner, giving orally my reasons briefly for so holding, and reserving to a later day time in which to file a written opinion. I proceed now to do so because the matter is of moment to taxpayers and to the State, and ought at this juncture to be heard by the Supreme Court before the time for the collection of taxes expires and while the Legislature is in session.

First, then, as to the power of the Court to grant the writ, and whether or not the writ of mandamus is the proper remedy I take it for granted that it will readily be conceded that to compel an officer of the county to do and perform a merely ministerial act plainly required of him by law is to writ of mandamus is the appropriate remedy and the Court of Common Pleas has jurisdiction to grant it, and in proper case will do so unless expressly prohibited by statute. This speedy and efficacious remedy will not be denied the aggrieved taxpayers by the Courts unless compelled to withhold it by express statutory enactment.

Counsel for respondent contended that such prohibition is contained in Sections 268 and 269 of the General Statutes. It is a sufficient answer to this argument to say that these sections have reference to the collection of an alleged illegal tax, and Courts are forbidden to interfere with the action of the tax collector by injunction, mandamus, or any other extraordinary proceeding or writ. The taxpayer is compelled, first, to pay under protest, and then to proceed to recover back the tax by suit as specifically directed in the Act.

But the present petitioner is not seeking to interfere with the duties of the tax collector, but only asks to have the auditor place in the hands of the treasurer the lawful valuation of his property and not that which is unlawful. The petitioning bank desires to avoid being placed in the dilemma provided for in Sections 268 and 269, and to that end prays the Court to compel the auditor to deliver to the treasurer the correct and lawful assessments of its property as fixed by the only boards having jurisdiction in assessing it.

The fact that Sections 268 and 269 render the present proceedings not only void, but voidable, but essentially to taxpayers, because it is the only possible mode by which a taxpayer can save himself from the hardship prescribed by these severe enactments. I hold, therefore, that the Court has full power to issue the writ in this proceeding and that there is no other remedy known to law by which the wrong herein complained of can be redressed so speedily and adequately.

The next question is as to the authority of the Comptroller General to direct the auditor to raise the valuation of personal property after it has been considered, scrutinized and finally fixed by the auditor, the township assessors and the county board of equalization. It certainly has no such authority under the Statutes of the State. The auditor and said

boards are the only persons having authority to assess for taxation the personal property of the people and such corporations as banks, and with their valuation of personal property, no officer of the State can interfere, and with their valuation of real estate no one can interfere except the State board of equalization.

As well might the Comptroller General, by his mandate to the county auditor, raise the valuation of all the real estate of a county or of an individual or individuals after the final action of the State board of equalization of the county boards.

In no Act nor section of an Act of the Legislature can such power be found conferred or attempted to be conferred on him. His control and supervision over county auditors does not go beyond furnishing them with proper books, blank forms, instructions as to general duties and the like, but not to the valuation and assessment of property. Over the action of township assessors and county and State boards of equalization, in so far as their valuation of property goes, he has no control, and from their judgment there is no appeal to him or anyone else. It is final and the auditor must accept it, and place the same on his tax list and duplicate. If he refuses he can be compelled to do so by writ of mandamus. It is his plain statutory duty.

It would be alarming to the taxpayers of the State if after their property has been assessed by boards specially charged by that law with duty, any one, may be the auditor or Comptroller General, could without notice and hearing increase arbitrarily such valuation. The same law applies to the assessment of property of the individual citizen as to a bank, and the law is equally jealous of the rights of both, and no more exacting in regard to one than the other.

I find, therefore, as matter of fact, that the allegations of the petition are true, and as matter of law that the petitioner is entitled to the writ prayed for, and for the reasons given I signed the order of November 18, inst.

J. H. HUDSON,
Presiding Judge.

High Tariff Does Not Hurt the Rich.

There is one significant and instructive paragraph in the Associated Press synopsis of opinions, cable from Paris, of the effect of the McKinley bill on our trade with France. A Mr. Vanbergen, "who annually exports to the United States textile goods to the value of \$5,000,000 francs," is quoted as saying: "The new tariff has not greatly injured our trade in high class goods. Our business in cheaper goods has diminished considerably." In other words, as The Sun and tariff reformers generally have insisted, this is the people of moderate means or the actually poor, neither of whom can afford to pay fancy prices, who are injuriously affected by an unduly high tariff. Being unable to pay, they go without or buy an inferior article produced at a low price in this country. In either case, they are made to bear the whole weight of the tariff inquiry. The rich, on the other hand, are not affected. They can afford to buy and to buy "high class" goods, whatever the tariff tax upon them. They may object to being robbed for the benefit of tariff monopolists, but they do not suffer as the poor man suffers. The whole tariff system in this country is aimed with fatal directness at the great mass of consumers, with the practical result of making the burden of poverty, the privations of small incomes much greater than they need be.—*Baltimore Sun.*

A Newspaper "Scrap."

But it Didn't Happen in Columbia This Time

GREENVILLE, Dec. 2.—There is blood on the moon in Greenville newspaper circles, and scuffling matches are the order of the day.

The Mountain City Echo is the name of a little afternoon newspaper started here several weeks ago, having for its object reform in politics of all kinds, and intended to be a supporter of the State and municipal reform administration. S. P. Britton and W. T. Crews were the proprietors, and B. F. Perry has been interested in its welfare.

The proprietors had a serious disagreement yesterday afternoon, and Crews agreed to buy Britton's interest out to day. Britton alleges that Crews drew a hatchet on him and had Crews prosecuted for assault of a high and aggravated nature. The prosecution was withdrawn after the case had been partially heard by a trial judge.

To day about noon Britton, accompanied by C. F. Dill, his lawyer, went to the Echo office to have a settlement. Britton began to fix the base of some plate matter to carry it away, claiming that it was his private property. Crews objected, and Lawyer Dill said something about the matter. Without much ado or many words, Ben Perry struck Mr. Dill a stinging blow on the right cheek with his fist. Mr. Dill returned the blow with effect, and a prolonged "scrap" was avoided by persons separating the two men. Neither was hurt, but the fight for a few minutes was a lively pace.

Britton claims that all the material belongs to him and this afternoon had claim and delivery papers served on Mr. Crews, who gave a bond. The paper will continue publication and will be run by W. A. Fowler & Co. The company is composed of Fowler, an Atlanta printer, Crews and B. F. Perry. Mr. Crews will be editor and Mr. Perry business manager. M. S. Scruggs will be local reporter. It is supposed the war is about over.—*State Dec. 3.*

The Promised "Organ."

The "Alliance Publishing Company" to Start in Columbia.

So the organ has come at last! But while it is to be established here, it is an Alliance organ and it is not made clear whether it represents the "Dominant Element" or not. The following, on which the Secretary of State yesterday issued a commission is self explanatory: "STATE OF SOUTH CAROLINA," Dec. 1, "RICHLAND COUNTY," 1891.

"We the undersigned, citizens of South Carolina do hereby file our peti-

tion with the Secretary of State, which petition sets forth that J. Wm. Stokes, of Orangeburg county; W. D. Evans, of Marlboro county; J. A. Sligh, of Newberry county; J. W. Bowden, of Anderson county; T. J. Strain, of Lancaster county and D. P. Duncan, of Union county, your petitioners, propose to do a general publishing business at the city of Columbia to be known as the Alliance Publishing Company.

"The amount of capital stock shall be \$10,000 in shares of \$10 per share. Inasmuch as nearly every one of the incorporators were out of the city yesterday afternoon, information on the subject could not be obtained. It was reported, however, that the plant of the Cotton Plant would be brought here, and that a combination plant would be made with the "Weak and Willing," but there is no verification of this. The new company expects to begin operations by the first of the new year.—*State Dec. 3.*

What measures are you taking to stop that cough? Let us suggest DeWitt's Cough and Consumption Cure. It is infallible. W. H. Gilliland & Co.

A Wonder Worker.
Mr. Frank Hoffman, a young man of Burlington, Ohio, states that he had been under the care of two prominent physicians, and used their treatment until he was not able to get around. They pronounced his case to be Consumption and incurable. He was persuaded to try Dr. King's New Discovery for Consumption, Coughs and Colds, and at that time was not able to walk across the street without resting. He found, before he had used half of a dollar bottle, that he was much better; he continued to use it and is to-day enjoying good health. "If you have any Throat, Lung or Chest Trouble try it. We guarantee satisfaction. Trial bottle free at J. F. W. DeLorme's Drugstore."

You don't want a torpid liver. You don't want a bad complexion. You don't want a bad breath. You don't want a headache. Then use DeWitt's Little Early Risers, the famous little pills. W. H. Gilliland & Co.

IF YOUR BACK ACHES, Or you are all worn out, and feel nothing, it is general debility. Try DeWitt's Kidney & Bladder Pills. It will cure you, cleanse your liver, and give you a good appetite.

The Best CORN AND COTTON STALK CHOPPER KNOWN TO MAN.

Every Farmer Should Have One. No Cost Iron to break when it strikes a rock. Will last for Years.

I AM NOW MANUFACTURING THE Tidale Patent Corn and Cotton Stalk Chopper. The machine is a good practical thing and will pay for itself in two years when a farmer has fifty acres of corn and cotton stalks to knock down.

Parties wanting the machine will please send in their orders as early as possible as each will be served in turn.

Read the certificates below.

JOEL E. BRUNSON.
"I have used your Cotton Stalk Chopper and find it a perfect success and I could not do without it after using it."
J. C. DURANT.

"I have used the Tidale Cotton Stalk Chopper, and it is a perfect success."
E. M. COOPER.

"We have used one of R. H. Tidale's Cotton Stalk Choppers on our plantation and it has given satisfaction and does first class work."
J. RITTENBERG & SONS, Oct. 14.

To The Public.

I AM STILL SELLING

First Class Goods

AT LIVING PRICES.

It takes too much room to

enumerate all the bargains

I have to offer, but I must

call your attention to our

HANDSOME CHAMBER SETS

Both in China and tin.

BIG DRIVES IN GLASSWARE

SHOES

That are solid and will wear.

HAVE YOU TRIED MY

Coffee at 20c. pr. lb

AND

Tea at 25c. pr. lb?

If not, you are missing a genuine bargain. It has long been a household word that you get nothing but good goods, and full value at

ALTAMONT MOSES'.

Oct. 6.

INSURANCE.

I cover everything in Insurance.

If it is your life, I give you a policy in the

Mutual Life Insurance Company,

OF NEW YORK,

The oldest, richest and most liberal Company in the U. S.

If on your Gin House, Dwelling, Stores, Bams, Furniture or Produce in the following companies, any of which are strong and reliable:

THE NORWICH UNION, of England.

THE QUEEN, of England.

PHOENIX ASSURANCE, of England.

THE CONTINENTAL, of New York.

THE NIAGARA, of New York.

THE NORTH AMERICAN, of Philadelphia.

THE GIRARD, of Philadelphia.

THE MERCHANTS, of Newark, N. J.

MECHANICS & TRADERS, of New Orleans.

My companies are as good and my rates as low as any one.

ALTAMONT MOSES.

J. F. W. DeLORME,

—DEALER IN—



Toilet Soaps, Perfumery and all Kinds of Druggist's Sundries Usually Kept in a

First Class Drug Store.

Tobacco, Snuff and Cigars, Garden Seeds, &c., also Paints, Oils, Varnishes, Glass Putty, &c., Dye Stuffs.

Physician's Prescriptions carefully compounded, and orders answered with care and dispatch. The public will find my stock of Medicines complete, warranted genuine, and of best quality. Call and see for yourselves.

Night Calls Promptly Attended To.



Drugs and Medicines, Soaps, Perfumery, Hair Brushes

Tooth Brushes, Tooth Powder, Also, Paints, Oils, Glass, Putty, Floor

Stains, Kalsomine, all colors for rooms, Artists' Paints and

Brushes, Luster Paints, Convex Glasses.

Nice line of Hanging and Stand Lamps, Lanterns, Shades, Wicks, Chimneys, &c.

TOBACCO AND CIGARS.

Keep the following popular brand of Cigars: "Plumb Good," "Custom House," "Rebel Girl."

See page FRESH GARDEN SEED. Prescriptions carefully compounded.

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ESTABLISHED 1868.

Watches, Diamonds,

Sterling Silver, Clocks,

Optical Goods, Fine Knives, Scissors and

Razors, Machine Needles, &c.

FOLSOM.

SIGN OF THE BIG WATCH.

HEADQUARTERS FOR WATCHES.

JAMES ALLAN & CO.

Diamonds, Jewelry, Silverware, Spectacles, Drawing Instruments.

THE FINEST STOCK IN THE STATE. RELIABLE GOODS AT REASONABLE PRICES.

Watch Repairing a specialty. Chief Inspectors of Watches for South Carolina Railway, Atlantic Coast Line and Southern Division of Three C's Rail Road.

JAMES ALLAN & CO.,

285 King St., Sign of Drum Clock. Charleston, S. C.

Feb. 8.

Save Your Money

—AND—

BUY WHERE YOU CAN BUY CHEAPEST.

J. E. MAYES,

MAYESVILLE, S. C.

Feed, Livery & Sale Stables.

The Best Equipped Stables in the Town.

Look! Look! Take care you don't faint when you get my prices on HORSES,

MULES, CARRIAGES, BUGGIES, WAGONS, CARTS & HARNESS.

Am getting in new stock now, and while they are new they have got to be sold.

Quick Sales and Short Profits. Come see for yourself.

J. E. MAYES,

Lafayette St., Mayesville, S. C.

ROBT. F. EPPERSON. H. HARBY.

CENTRAL LIVERY STABLE.

NEW

LIVERY, FEED AND SALE STABLES.

We have opened at the shops formerly occupied by R. W. Bradham, on LIBERTY STREET, a large and commodious establishment which will be thoroughly equipped, so as to merit a share of public patronage.

Prompt and Courteous Attention Given to all Customers.

EPPERSON & CO.

July

HARDWARE.

(OLD RELIABLE)

R. W. DURANT & SON,

Offer a full line of goods consisting of nearly everything needed

For Household, Plantation and Mechanical Use,

And at prices to suit the times. We buy largely for CASH

and sell close. Come in and see the

Prettiest and Largest Stock Outside of the Large Cities.

Carriage and Wagon Material, Wheels, &c.

TABLE CUTLERY, POCKET CUTLERY, GUNS, PISTOLS, SHELLS, AMMUNITION,

TOOLS, ENGINE FIXTURES, PUMPS, PIPES IN WOOD AND IRON,

RUBBER AND LEATHER BELTING, PACKING, LACING, ETC.

OH! YES, COOK STOVES, COOK STOVES, ALL WARRANTED. HEATING STOVES,

ALL KINDS, OIL STOVES FROM \$1.00 UP.

HARNESS ALL KINDS.

Out of breath, can't tell you all we have. Everybody, COME AND SEE.

R. W. DURANT & SON,

Main Street, Sumter, S. C.

Charleston, Sumter and Northern R. R.

IN EFFECT NOVEMBER 2, 1891.

North. MAIN LINE. South.

A. M. P. M. A. M. P. M.

5:00 8:50 Charleston 10:00 11:30

6:45 8:15 Pegguln 9:40 10:00

6:55 8:25 Harleyville 9:50 10:10

7:08 8:38 Pecks 9:37 9:57

7:11 8:41 Holly Hill 9:34 9:54

7:17 8:47 Connors 9:36 9:56

7:25 8:55 Eutawville 9:38 9:58

10:10 7:37 9:08 Yances 9:08 9:28 12

7:53 9:23 Merriam 7:53 8:13

8:04 9:34 St. Paul 7:42 8:42

8:09 9:39 Summerton 7:37 8:37

8:20 9:50 St. Charles 7:28 8:28

8:29 9:59 Packville 7:17 8:17

8:40 10:10 Tindal 7:06 8:06

9:00 10:30 Sumter 6:50 7:50

9:13 10:43 Oswego 6:52 7:52

9:26 10:56 St. Charles 6:19 7:19

9:51 11:05 Elliotts 6:10 7:10

9:50 11:20 Lamar 5:55 6:55

10:03 11:33 Syracuse 5:42 6:42

10:16 11:46 Darlington 5:29 6:29

10:31 12:01 Most. Olare 5:14 6:14

10:46 12:16 Robins Neck 4:59 5:59

11:04 12:34 Mandeville 4:41 5:41

11:20 12:50 Bennettsville 4:25 5:25

A. M. P. M. A. M. P. M.

HARLIN CITY BRANCH.

North. South.

3:30 3:1

P. M. A. M. P. M.

8:08 11:00 Yances 8:10 6:00

8:28 11:23 Snells 7:48 5:40

8:43 11:33 Parlers 7:37 5:25

9:00 11:55 Harlin City 7:15 5:05

POND BLUFF BRANCH.

North. South.

27 27

8:55 Eutawville 10:05

9:08 Belvidere 9:50

9:20 Ferguson 9:35

Trains 1 and 2 have through cars between Charleston and Fayetteville.

All trains daily except Sunday.

Merriam, Snells and Belvidere are flag stations.